



**AGENDA**  
**ZONING BOARD OF ADJUSTMENT**  
**Workshop Meeting**  
**Tuesday, May 05, 2009 at 6:00 PM**  
**College Station Conference Center**  
**1300 George Bush Drive**  
**College Station, Texas 77840**

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1. Call to order – Explanation of functions of the Board.
2. Consideration, discussion and possible action of Absence Requests from meetings.
3. Discussion of requested Administrative Adjustments.
  - 302 Stone Chase Court, 18-inch rear setback encroachment-Denied. Case #09-0050073(LH)
4. Consideration, discussion and possible action to approve meeting Minutes.
  - April 7, 2009, Meeting Minutes
5. Public hearing, presentation, possible action, and discussion regarding a request for a variance to Chapter 2, Section 1, B-5, of the College Station Code of Ordinances regarding the required minimum distance between a poultry structure (i.e. a chicken coop) and neighboring dwelling units for the property located at 316 Suffolk Avenue in the Oakwood Subdivision. Case #09-050069 (MKH)
6. Public hearing, presentation, possible action, and discussion on variance requests to the Unified Development Ordinance, Section 5.6.B.12 Sign Standards regarding projection signs and Section 7.4 Signs regarding attached signs and permanent banners for 614 Holleman Drive East, Reserve Lot, Woodstock #1 Subdivision. Case #09-00500070 (JS)
7. Consideration and possible action on future agenda items – A Zoning Board Member may inquire about a subject for which notice has not been given. A statement of specific factual information or the recitation of existing policy may be given. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting
8. Adjourn.

Consultation with Attorney {Gov't Code Section 551.071; possible action.

The Zoning Board of Adjustments may seek advice from its attorney regarding a pending and contemplated litigation subject or attorney-client privileged information. After executive session discussion, any final action or vote taken will be in public. If litigation or attorney-client privileged information issues arise as to the posted subject matter of this Zoning Board of Adjustments meeting, an executive session will be held.

**Notice is hereby given that a Regular Meeting of the Zoning Board of Adjustment of College Station, Texas will be held on **Tuesday, May 05, 2009 at 6:00 p.m.** at the College Station Conference Center, 1300 George Bush Drive, College Station, Texas. The following subjects will be discussed, to wit: See Agenda**

Posted this the \_\_\_\_ day of \_\_\_\_\_, 2009 at \_\_\_\_ p.m.

**CITY OF COLLEGE STATION, TEXAS**

By \_\_\_\_\_  
Connie Hooks, City Secretary

**I, the undersigned, do hereby certify that the above Notice of Regular Meeting of the Zoning Board of Adjustment of the City of College Station, Texas, is a true and correct copy of said Notice and that I posted a true and correct copy of said notice on the bulletin board at City Hall, 1101 Texas Avenue, in College Station, Texas, and the City's website, [www.cstx.gov](http://www.cstx.gov). The Agenda and Notice are readily accessible to the general public at all times. Said Notice and Agenda were posted on \_\_\_\_\_ p.m. and remained so posted continuously for at least 72 hours proceeding the scheduled time of said meeting.**

**This public notice was removed from the official posting board at the College Station City Hall on the following date and time: \_\_\_\_\_ by \_\_\_\_\_.**

**Dated this \_\_\_\_ day of \_\_\_\_\_, 2009.**

**CITY OF COLLEGE STATION, TEXAS**

By \_\_\_\_\_

**Subscribed and sworn to before me on this the \_\_\_\_ day of \_\_\_\_\_, 2009.**

\_\_\_\_\_  
**Notary Public- Brazos County, Texas**

**My commission expires: \_\_\_\_\_**

**This building is wheelchair accessible. Handicap parking spaces are available. Any request for sign interpretive service must be made 48 hours before the meeting. To make arrangements call 979.764.3517 or (TDD) 800.735.2989. Agendas may be viewed on [www.cstx.gov](http://www.cstx.gov).**



***MINUTES***  
**Zoning Board of Adjustment**  
**April 7, 2009**  
**CITY OF COLLEGE STATION, TEXAS**  
**City Hall Council Chambers**  
**1101 Texas Avenue**  
**6:00 P.M.**

**MEMBERS PRESENT:** Chairman Jay Goss, Rodney Hill, John Richards, Robert Brick and Josh Benn.

**MEMBERS ABSENT:** Alternates Melissa Cunningham and Hunter Goodwin (not needed).

**STAFF PRESENT:** Staff Assistants Deborah Grace-Rosier and Amber Carter, Staff Planner Matthew Hilgemeier, Assistant Director of Planning and Development Services Lance Simms, First Assistant City Attorney Mary Ann Powell, and Action Center Representative Kerry Mullins.

**AGENDA ITEM NO. 1:**     **Call to order – Explanation of functions of the Board.**

Chairman Goss called the meeting to order at 6:00 PM.

**AGENDA ITEM NO. 2::**     **Consideration, discussion and possible action of Absence Requests from meetings.**

There were no requests to consider.

**AGENDA ITEM NO. 3:**     **Discussion of requested Administrative Adjustments.**

**~ 1815 Brothers Boulevard – adjustment of 106 parking spaces (10%) for site redevelopment. Case # 09-00500011 – Approved.**

Assistant Director Lance Simms told the Board that the project was for the redevelopment of the Walmart Super Center. There were no questions.

**AGENDA ITEM NO. 4:**     **Consideration, discussion and possible action to approve meeting minutes.**

**~ March 3, 2009, meeting minutes.**

Mr. Hill motioned to approve the meeting minutes. Mr. Brick seconded the motion, which passed unopposed (5-0).

**AGENDA ITEM NO. 5: Public hearing, presentation, possible action, and discussion on a variance request to the Unified Development Ordinance, Section 7.2 Off Street Parking Standards regarding interior island area requirements for the property located at 1007 Earl Rudder Freeway South, more commonly known as Ninfa's Mexican Restaurant. Case # 09-00500052**

Staff Planner Matt Hilgemeier presented the staff report and stated that the applicant is requesting a reduction in the required interior parking island area to allow for ten additional parking spaces. The subject property, currently in use as Ninfa's Mexican Restaurant, developed in September 2008. The restaurant complies with the minimum number of parking spaces required in the Unified Development Ordinance (UDO); however, the owner feels that there is not enough parking to meet the current needs. The applicant is requesting a 750 square-foot reduction in the interior island area requirement in order to provide ten additional parking spaces. Therefore, the applicant is requesting a variance to Section 7.2 E. to allow for the reduction of the required interior area by 750 square feet (or 18%).

Chairman Goss opened the public hearing for those wanting to speak in favor of the request.

Rabon Metcalf, 1391 Seamist, College Station, Texas, stepped before the Board and was sworn in by Chairman Goss. Mr. Metcalf stated that he is the Engineer for the project and Ninfa's is simply looking for a way to add additional parking spaces.

Mario Rodriquez, Owner of Ninfa's, stepped before the Board and was sworn in Chairman Goss. Mr. Rodriquez reiterated what Mr. Metcalf stated.

With no one else stepping forward to speak in favor or opposition, Chairman Goss closed the public hearing.

**Mr. Richards motioned to deny the variance** to the parking requirements from the terms of the Ordinance as it will be contrary to the public interest, due to the lack of any special conditions, and because a strict enforcement of the provisions of the Ordinance would not result in unnecessary hardship to this applicant, and such that the spirit of the Ordinance shall be observed and substantial justice done. **Mr. Hill seconded the motion, which passed unopposed (5-0).**

**AGENDA ITEM NO. 6: Consideration and possible action on future agenda items – A Zoning Member may inquire about a subject for which notice has not been given. A statement of specific factual information or the recitation of existing policy may be given. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.**

There were no items addressed.

**AGENDA ITEM NO. 7: Adjourn.**

The meeting was adjourned at 6:21 PM.

**APPROVED:**

\_\_\_\_\_  
**Jay Goss, Chairman**

**ATTEST:**

\_\_\_\_\_

**Deborah Grace-Rosier, Staff Assistant**



**VARIANCE REQUEST  
FOR  
316 Suffolk Dr  
(Case # 09-0050069)**

**REQUEST:** Variance to Chapter 2, Section 1 of the College Station Code of Ordinances regarding the required minimum distance between a poultry structure (i.e. a chicken coop) and neighboring dwelling units.

**LOCATION:** 316 Suffolk

**APPLICANT:** Hugh Stearns

**PROPERTY OWNER:** Hugh Stearns

**PROJECT MANAGER:** Matthew Hilgemeier, Staff Planner  
[mhilgemeier@cstx.gov](mailto:mhilgemeier@cstx.gov)

**RECOMMENDATION:** Denial

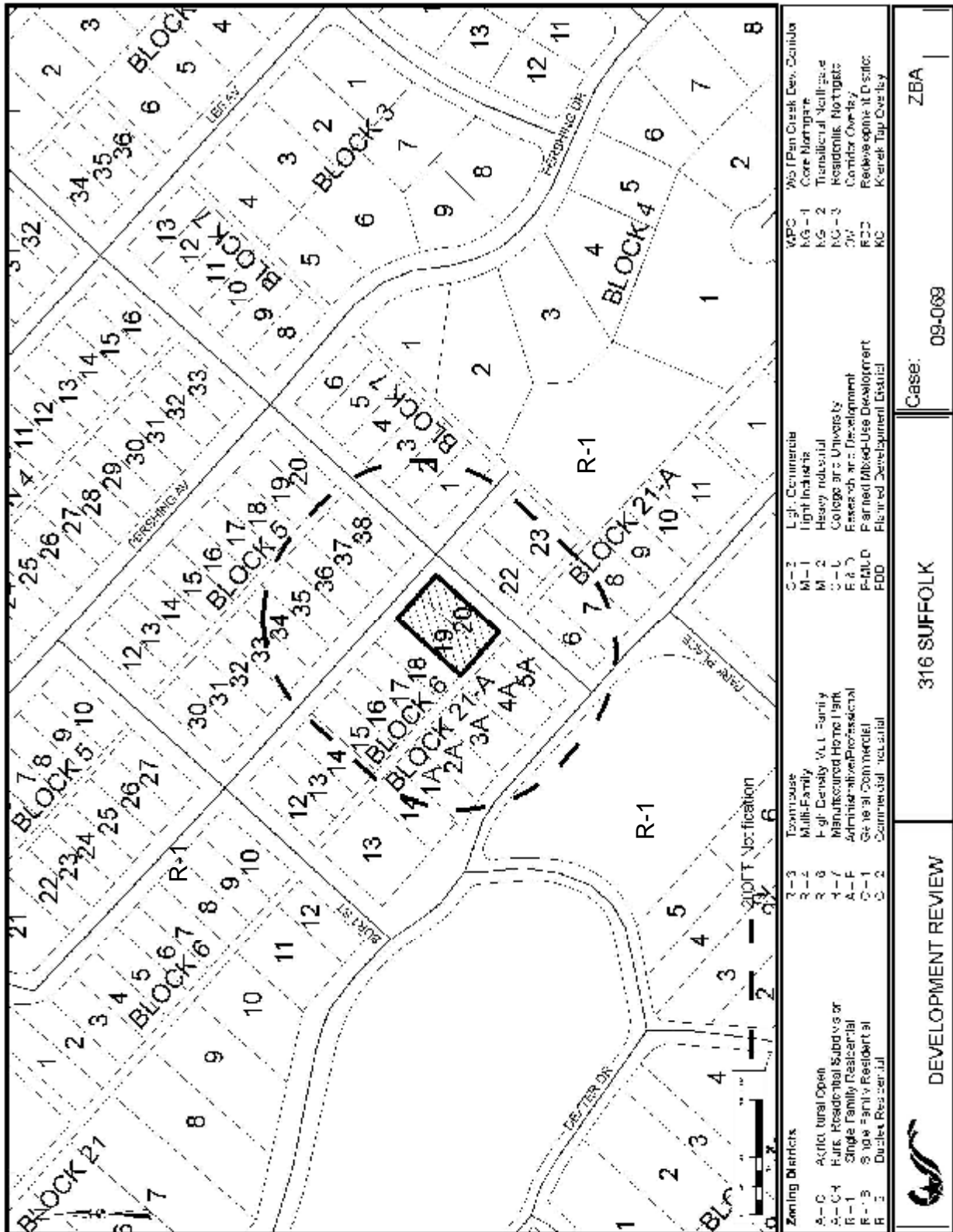
**BACKGROUND:** The applicant is requesting a variance to the minimum distance required between a structure housing poultry (chicken coop) and the neighboring residential structures. On March 10, 2009, the applicant filed for a livestock permit as required by College Station Code of Ordinances, Chapter 2 to keep poultry (more specifically chickens) in his backyard. Per the standard operating procedure, a Code Enforcement Officer was sent to the property to verify if the location of the structure is in compliance with the City Code. Upon inspection, the Code Enforcement Officer discovered that the structure was located fifty feet (50') from the dwelling unit located to the rear of the subject property and eighty-nine feet, nine and one-half inches (89'-9 ½") from the dwelling unit adjacent to the subject property.

The Code of Ordinances allows for livestock or poultry to be kept in residential areas as long as it is kept within a structure or enclosure, or is tethered and not permitted to run at large. The ordinance also requires that the livestock or poultry housing be at least one hundred feet (100') from any neighboring dwelling unit, other than that which is occupied by the owner of the livestock or poultry. **Therefore, the applicant is requesting a variance of fifty feet (50') and**

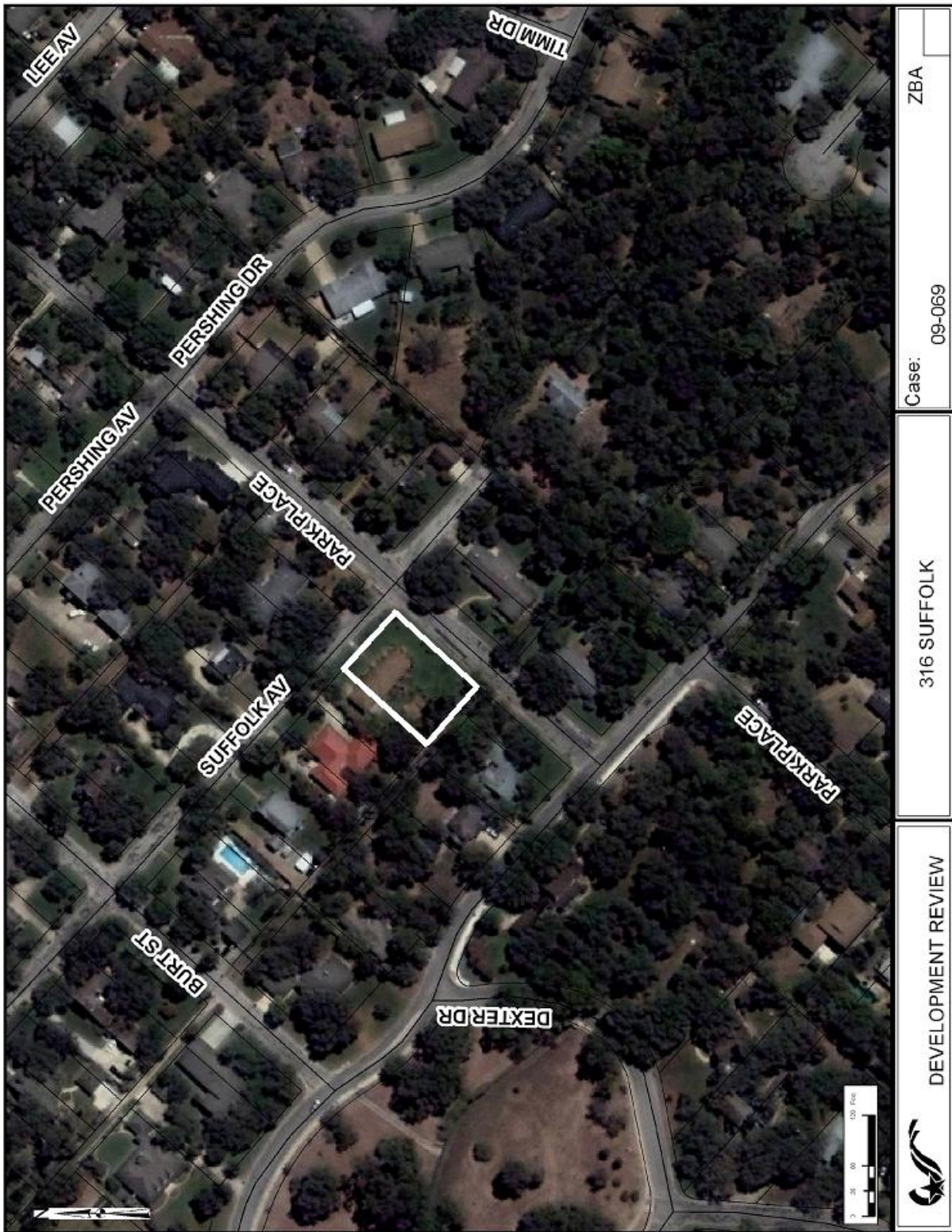
**also ten feet, two and a half inches (10'-2 ½") to the one-hundred foot (100') separation between the poultry structure and neighboring dwelling units (as shown on the Site Drawing attachment) as required by Chapter 2, Section 1, B5, of the College Station Code of Ordinances.**

**APPLICABLE ORDINANCE SECTION:** Chapter 2, Section 1, B5, of the City Code regarding Animal Control.

**ORDINANCE INTENT:** To regulate the keeping and raising of livestock within the city limits and to protect the neighboring properties from effects that such activities can have.







## NOTIFICATIONS

Advertised Board Hearing Date: May 5, 2009

The following neighborhood organizations that are registered with the City of College Station's Neighborhood Services have received a courtesy letter of notification of this public hearing:

### **Oakwood Neighborhood Association**

Property owner notices mailed: **23**  
Contacts in support: **0**  
Contacts in opposition: **10**  
Inquiry contacts: **5**

The contacts in opposition have all stated that they are not only opposed to the granting of the variance, they are opposed to allowing any type of livestock in a residential area.

## ZONING AND LAND USES

Direction	Zoning	Land Use
Subject Property	R-1	Single Family Residential
North	R-1	Single Family Residential
South	R-1	Single Family Residential
East	R-1	Single Family Residential
West	R-1	Single Family Residential

## PHYSICAL CHARACTERISTICS

1. **Frontage:** approximately 113 feet along Suffolk Ave; approximately 132 feet along Park Place
2. **Access:** The subject property has access from a driveway along Suffolk Ave.
3. **Topography and vegetation:** The property slopes 2 feet from the northwestern corner towards the intersection of Suffolk Ave and Park Place. The property has a moderate amount of vegetation.
4. **Floodplain:** The property is not located in a floodplain.

## REVIEW CRITERIA

Chapter 2 of the College Station Code of Ordinances sets forth a set of 4 review criteria to evaluate variance requests regarding the provisions of a livestock permit. The Code of Ordinances states that if requested the Board may vary the application of any provision of the ordinance to any particular case when, in its opinion, the enforcement thereof would manifest injustice and would be contrary to the spirit and purpose of this ordinance or the public interest and also finds the following:

1. **Special Conditions:** That there exist special conditions or circumstances that are peculiar and are not applicable to other property.

The applicant states that the only legal placement of the chicken coop would put it in a location directly across the street from front door of the neighboring property located at 802 Park Place. Staff feels that while this is a valid concern of the applicant, this condition is not related to the physical characteristics of the property itself.

Additionally, any resident can apply for a livestock permit as long as it meets the requirements of The Code of Ordinances. It is unknown at this time if the allowable area for a chicken coop on other properties would face the same challenges as on this property.

2. **Hardships:** That the hardship is not the result of the applicant's own actions.

The applicant states that the legal location would be unsightly and therefore constitutes a hardship. While the aesthetics of the location and the structure are important to maintaining the character of the neighborhood, the applicant does have an area on his property that would allow the structure to be placed and would still meet the existing requirements; therefore the hardship **is** a result of the applicant's own actions

3. **Special Privilege:** That granting the variance requested will not confer on the applicant any special privilege that is denied by the ordinance.

By granting this variance no special privilege would be conferred to the applicant because the applicant would still be allowed to have a chicken coop on his property, just not in the location that is preferred.

4. **Substantial Detriment:** That the granting of the variance will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area, or to the City in administering this UDO.

Ten neighbors in the area have expressed opposition to this request, though most of their expressed concerns are not to the actual location of the coop, but to its housing of chickens. They are concerned with the effects that a chicken coop will have on their property values; the peace and quiet of the neighborhood; the possible smell from the coop; and health issues associated with having this type of livestock structure near single family homes.

## ALTERNATIVES

There is a location on the applicant's property that complies with the College Station Code of Ordinances requiring that any poultry housing must be located 100' from any neighboring residential structure. (See attached site drawing)

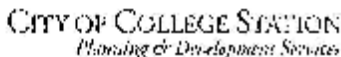
## STAFF RECOMMENDATION

Staff recommends denial of the variance because the applicant has failed to show that a special condition related to the property is creating a hardship that would deprive him reasonable use of his property. While staff understands the concerns of the applicant related to the unsightly view that it could cause the neighboring property if the structure was placed within the allowed area, this does not constitute a hardship as defined by the Unified Development Ordinance.

## SUPPORTING MATERIALS

1. Application
2. Site Photos
3. Site Drawing

4. Chapter 2, Section 1 of the College Station Code of Ordinances.



FOR OFFICE USE ONLY

CASE NO.: 09-19

DATE SUBMITTED: 3-27-09

# ZONING BOARD OF ADJUSTMENT APPLICATION

**MINIMUM SUBMITTAL REQUIREMENTS:**

- ☒ \$150 Filing Fee
- ☐ Application completed in full.
- ☐ Additional materials may be required of the applicant such as site plans, elevation drawings, sign details and floor plans. The Zoning Official shall inform the applicant of any extra materials required

Date of Preapplication Conference: \_\_\_\_\_

APPLICANT/PROJECT MANAGER'S INFORMATION (Primary Contact for the Project):

Name Hugh Stearns  
 Street Address 316 Suffolk City College Station  
 State TX Zip Code 77840 E-Mail Address hugh@stearnsdesignbuild.com  
 Phone Number 693-1980 (H) 696-0524 (W) Fax Number 695-9915

## PROPERTY OWNER'S INFORMATION:

Name SAME

Street Address \_\_\_\_\_ City \_\_\_\_\_

State \_\_\_\_\_ Zip Code \_\_\_\_\_ E-Mail Address \_\_\_\_\_

Phone Number \_\_\_\_\_ Fax Number \_\_\_\_\_

LOCATION OF PROPERTY:

Address BIG SUFFOLK map 41-09  
 Lot \_\_\_\_\_ Block \_\_\_\_\_ Subdivision Oakwood Lot 20, 19, and 20' of 18, Block 6  
 Description if there is no Lot, Block and Subdivision \_\_\_\_\_

Action Requested: (Circle One)

Setback Variance Parking Variance Sign Variance	Appeal of Zoning Official's Interpretation Special Exception Drainage Variance
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Other: set back for chicken coop

Current Zoning of Subject Property: R-1

Applicable Ordinance Section: Chapter 2 Section 1B.2 5 MH 4-1-09

## GENERAL VARIANCE REQUEST

The following specific variation from the ordinance is requested:

Allow chicken coop closer than 100 feet to neighboring structures

This variance is necessary due to the following special conditions:

**Special Condition Definition:** To justify a variance, the difficulty must be due to unique circumstances involving the particular property. The unique circumstances must be related to a physical characteristic of the property itself, not to the owner's personal situation. This is because regardless of ownership, the variance will run with the land.

**Example:** A creek bisecting a lot, a smaller buildable area than is seen on surrounding lots, specimen trees.

**Note:** A cul-de-sac is a standard street layout in College Station. The shape of standard cul-de-sac lots are generally not special conditions.

The only legal placement of this coop and pin would put it in a location directly across the street from my neighbor's front door.

The unnecessary hardship (s) involved by meeting the provisions of the ordinance other than financial hardship is/are:

**Hardship Definition:** The inability to make reasonable use of the property in accord with the literal requirements of the law. The hardship must be a direct result of the special condition.

**Example:** A hardship of a creek bisecting a lot could be the reduction of the buildable area on the lot, when compared to neighboring properties.

Legal location would be unsightly.

The following alternatives to the requested variance are possible:

The proposed location uses a deeply vegetated green space and a portable building to better block neighbors view of coop than does the only legal area.

This variance will not be contrary to the public interest by virtue of the following facts:

The structure would be neatly tucked away out of sight of the neighbors that it is less than 100' from.

**The applicant has prepared this application and supporting information and certifies that the facts stated herein and exhibits attached hereto are true and correct. IF APPLICATION IS FILED BY ANYONE OTHER THAN THE OWNER OF THE PROPERTY, APPLICATION MUST BE ACCOMPANIED BY A POWER OF ATTORNEY STATEMENT FROM THE OWNER.**

Hyun W. Stearns  
Signature of owner (or agent) or applicant

3/26/09  
Date

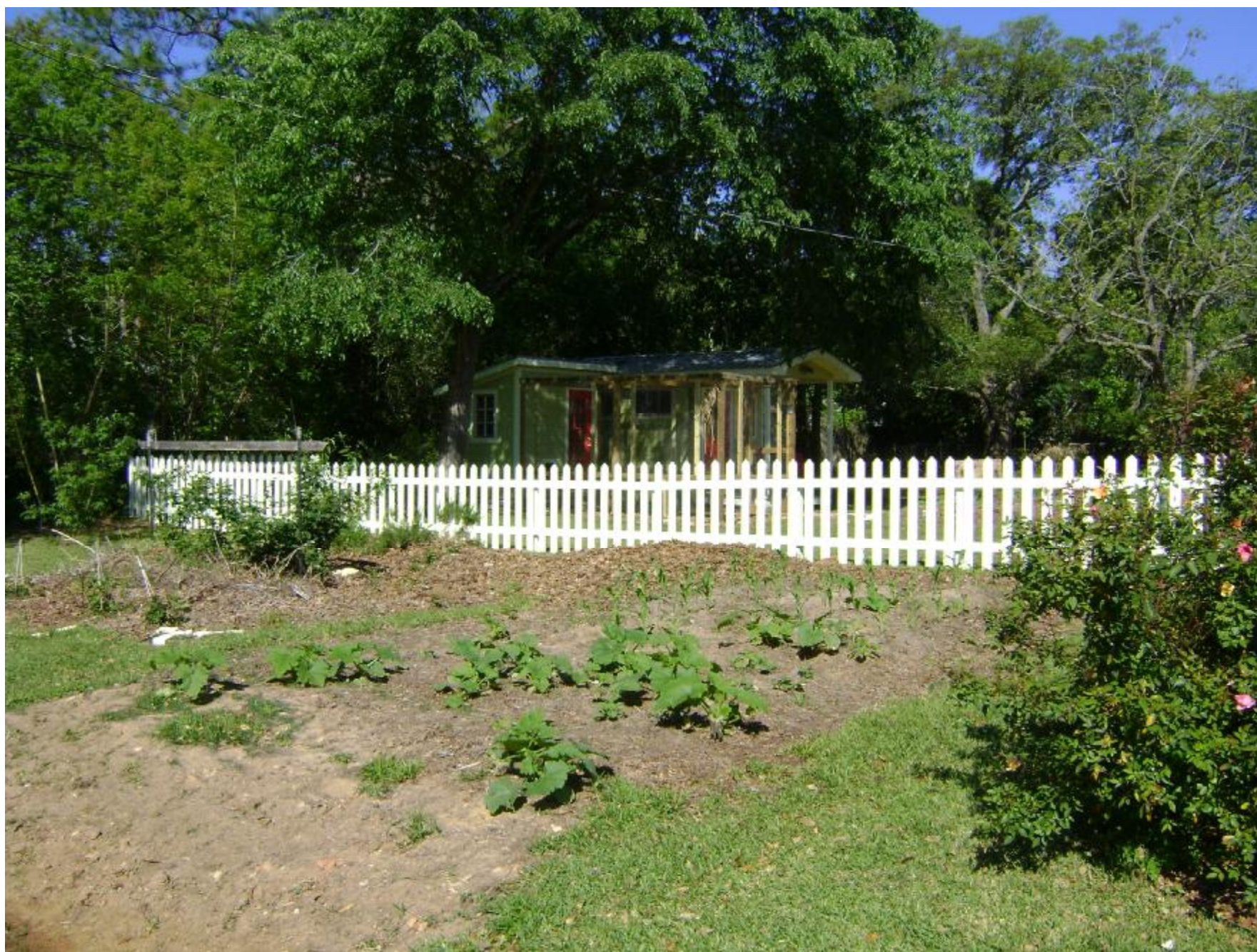




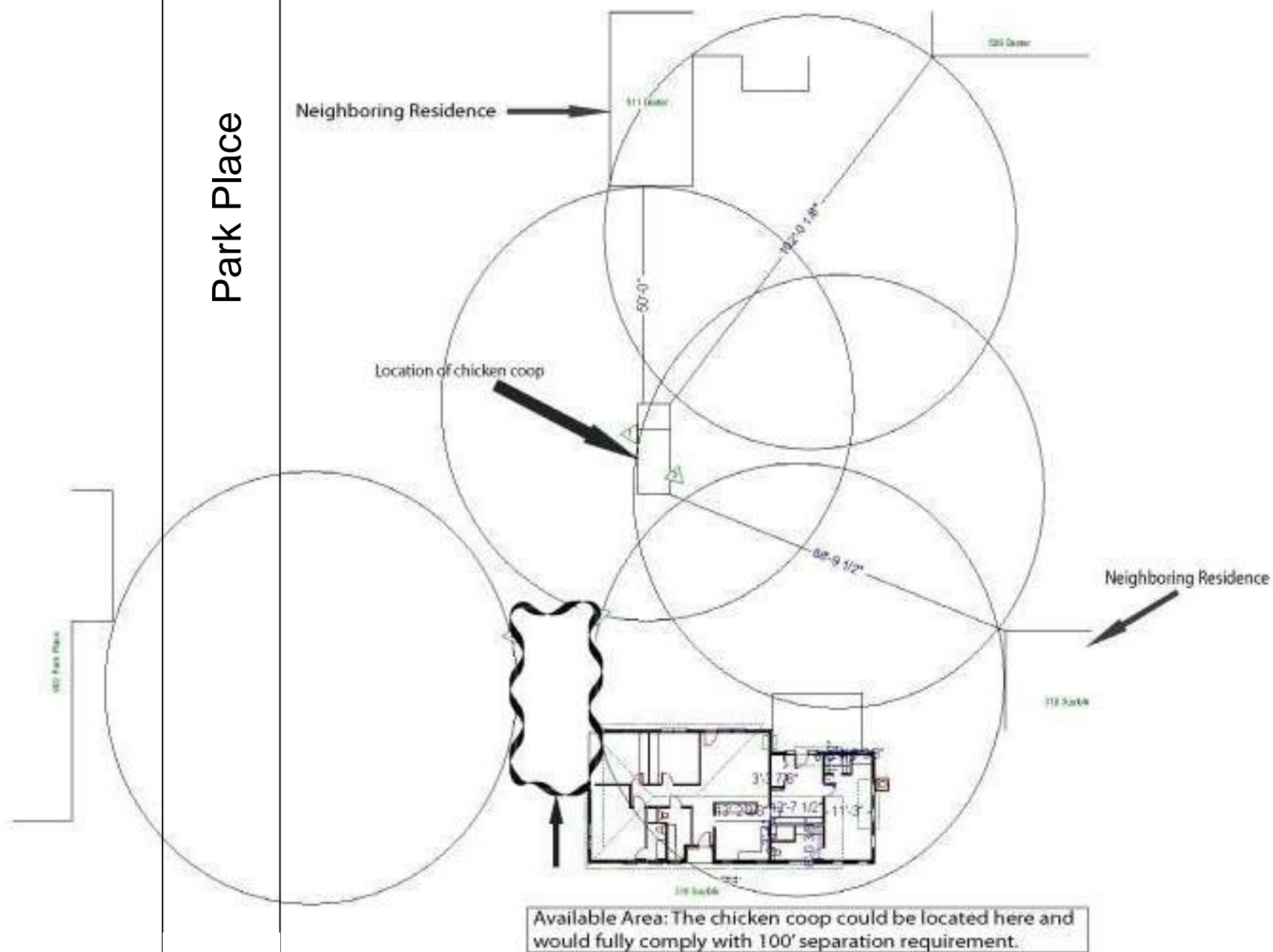












Note: Circles represent 100' diameters

# CHAPTER 2

## ANIMAL CONTROL

### SECTION 1: PERMIT REQUIRED TO KEEP LIVESTOCK OR POULTRY WITHIN CITY LIMITS

#### A. LIVESTOCK AND POULTRY DEFINED

No person shall keep livestock or poultry within the limits of the City of College Station without first obtaining and thereafter keeping in force a permit permitting him to do so. The term livestock includes specifically but not exclusively horses, mules, asses, swine, cattle, sheep, goats, and rabbits; the term poultry includes specifically but not exclusively chickens, turkeys, geese, ducks, pigeons, and guineas.

#### B. TERMS FOR GRANTING PERMITS

Said permits shall be granted or allowed to remain in force only when the regulations as follows are observed:

- (1) The livestock and poultry shall be kept within structures, enclosures, or tethered, and not permitted to run at large.
- (2) The manure and debris incident to the maintenance and care of livestock or animals shall be scraped from roosts and floors and raked from pens or areas with such frequency as to prevent the same from serving as breeding places for insects and from emitting noxious odors.
- (3) The manure and debris scraped or raked as provided in paragraph (2) above, shall immediately be collected and either placed and kept in a waterproof and insect proof container until removed from the premises, or treated immediately and periodically thereafter with a chemical as directed by the manufacturer thereof that is manufactured and sold as an effective agent for preventing flies and other insects from breeding in manure and debris.
- (4) The inside walls, ceilings, roosts, and floors of the structure in which the livestock or poultry is housed shall be treated and kept treated with effective material manufactured and sold for the control of flies, mites, and lice and applied according to the manufacturer's directions.
- (5) The structure or enclosure within which the livestock or poultry are confined shall be not less than one hundred feet (100') from any dwelling house other than that occupied by the owner of the livestock or poultry.

#### C. PROCEDURE FOR OBTAINING PERMITS

The procedure and requirements for the granting and keeping in force of permits shall be as follows:

- (1) Application Requirements

Any person desiring a permit permitting him to keep livestock or poultry within the city limits shall file an application with the City Manager or his delegate on a form provided by him for that purpose. Said application shall among other things call for:

- (a) The name and address of the applicant; the estimated average number and types of livestock or poultry to be kept;
- (b) A description of the structures and the facilities to be used for the enclosure of the livestock or poultry and for the disposal of the manure and debris incident to their maintenance and care; and,
- (c) The distance to the adjacent residence from the outside boundaries of the structure or fence in which the livestock or poultry are to be enclosed.

(2) Application Fee

The application shall be accompanied by a fee in an amount which shall be set by the City Council by resolution from time to time.

The applicant or permit holder shall pay a fee for all permit inspections, reinspections and inspections resulting from allegations of non-compliance. Such payment shall be a condition of the permit.

(3) Inspection of Facilities

When an application has been filed in proper form, the City Manager or his delegate shall inspect the premises wherein the livestock or poultry are to be kept. If the premises are in compliance with the ordinance, the City Manager or his delegate shall issue a permit which shall be valid for a period of one year from the date of the inspection.

(4) Variances

- (a) Variances to the terms of this ordinance may be granted by the Zoning Board of Adjustment. In the event of a request for variance, the City Manager or his delegate shall prepare an opinion as to whether the same is in compliance with the regulations and submit it to the board for its consideration. Prior to review by the board, the City Manager or his delegate shall notify in writing, by U.S. Mail, all property owners within two hundred feet (200') of the applicant's property.
- (b) The Zoning Board of Adjustment shall hold a hearing and provide all interested persons an opportunity to appear and present evidence. Upon the close of the hearing, the Zoning Board of Adjustment shall issue an order granting or denying the permit.
- (c) The Zoning Board of Adjustment, when so requested and after a hearing, may vary the application of any provision of this ordinance to any particular case when, in its opinion, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of this ordinance or the public interest, and also finds all of the following:
  - (i) Special conditions and circumstances exist that are peculiar and are not applicable to other property;
  - (ii) Special conditions and circumstances that result from the action of the applicant;

- (iii) Granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance;
- (iv) Granting of the variance will be in the harmony with the general intent and purpose of this ordinance and will not be detrimental to the public health, safety and general welfare.
- (d) In granting the variance, the Board may prescribe a reasonable time limit within which the action for which the variance is required shall be commenced and/or completed. In addition, the Board may prescribe appropriate conditions and safeguards in conforming with this ordinance. Violations of the conditions of the variance shall be deemed a violation of this ordinance.

(5) Permit Renewals

A permit shall be valid for one (1) year from the date of issuance. The same may be renewed by the filing of a renewal application from the City Manager or his delegate on a form provided by him for that purpose and the payment of a renewal application fee in the amount set by resolution from time to time.

(6) Permit Violations; Hearings by City Judge

The City Manager or his delegate may make periodic inspections at the permitted premises. As a condition of this permit, the permittee shall allow the City Manager or his delegate onto the premises for the purpose of inspection during normal business hours. Permittee shall pay a re-inspection fee, as set by resolution from time to time, whether the inspection is an annual permit renewal inspection or an unannounced inspection to ascertain whether the regulations as hereinbefore provided are being observed. If the City Manager or his delegate finds that the aforesaid regulations are violated, he may issue a citation for the permittee or applicant to appear in municipal court before the judge to answer such charges. If, after a hearing, the judge finds the aforesaid regulations have been violated, it shall then order the permit cancelled.

**(Ordinance No. 1970 of August 27, 1992)**

D. EXEMPTIONS

Pot-bellied pigs that by habit or training live in association with man shall be exempt from the permitting requirement of this section. No permits will be required for properties zoned A-O, A-OR or A-OR.

**(Ordinance No. 2265 of September 11, 1997)**

E. PENALTY FOR VIOLATIONS

Violations of this section of the ordinance shall be punished in accordance with Chapter 1, Section 5 of this Code of Ordinances.

**(Ordinance No. 1970 of August 27, 1992)**



**VARIANCE REQUESTS  
FOR  
PROJECTION SIGNS, PERMANENT BANNERS,  
AND ATTACHED SIGNS**

**REQUESTS:**

- 1) Projection Signs:
  - a. Allow projections signs in the Wolf Pen Creek District;
  - b. Allow more than one projection sign per building (two are requested for this project);
  - c. Allow 65 square foot projection signs, a 47 sq ft variance;
  - d. Allow projection signs to project 4 ft and 4 inches from the building, a 1 ft and 4 inch variance.
- 2) Permanent Banners: allow projection signs to consist of banner material.
- 3) Attached Signs: allow sign to project 4 feet above the canopy, a 3-foot variance.

**LOCATION:**

614 Holleman Drive East; Reserve Lot, Woodstock #1 Subdivision

**APPLICANT:**

Natalie Ruiz, IPS Group – Planning Solutions

**PROPERTY OWNER:**

Mark Lindley, Asset Plus Corporation

**PROJECT MANAGER:**

Jason Schubert, AICP, Staff Planner  
[jschubert@cstx.gov](mailto:jschubert@cstx.gov)

**RECOMMENDATION:**

Staff recommends denial of all variance requests since based on an evaluation of review criteria set for in the Unified Development Ordinance and as detailed in the report, only two (2) of the nine (9) criteria have been affirmative. It is Staff's judgment that the applicant has brought forward requests that are matters within the policy discretion of Council, as made through adopted ordinance, and are not based on substantive conditions or hardships that exist on this property.

**BACKGROUND:** The applicant is currently constructing a mixed use development of 264 multi-family units with a private clubhouse and about 9,000 square feet of retail space. Since the property is located in the Wolf Pen Creek District, the Design Review Board (DRB) has the final review authority regarding site plans and signage. The DRB may only consider these items when they meet the technical requirements of the UDO or when waivers or appeals requests have been made for which it has the authority to grant. The proposed freestanding sign meets the technical requirements of the UDO and is not part of these variance requests. Since the remaining proposed signs are not in compliance with the UDO and the DRB does not have the authority to consider an appeal or waiver to their sign standards, the applicant is requesting six (6) sign variances to the ZBA.

The variances can be grouped into three categories. First, **the applicant is seeking a variance to allow projection signs in the Wolf Pen Creek zoning district.** The ordinance only permits these signs in the NG-1 Core Northgate and NG-2 Transitional Northgate districts. This variance must be granted before the other variances relating to the projection signs, as allowed in the two (2) Northgate districts, can be granted. **The applicant requests variances to allow:**

- § **more than one projection sign per building (two are requested for the project);**
- § **projection signs to be 65 square feet, a 47 square feet variance; and**
- § **projection signs to project 4 ft and 4 inches from the building, a 1 ft and 4 inch variance.**

The second category relates to sign material. **The applicant is also requesting a variance to allow the permanent projection signs to consist of banner material,** thus in effect permitting permanent banners to be placed on the building.

The third category relates to attached signs. **The applicant is requesting a variance to allow the attached sign on the front canopy of the private club house to extend 4 feet above the canopy, a 3-foot variance.** The applicable sections and intent of the ordinance for each of these categories is described below.

## **VARIANCE REQUEST PART 1 – PROJECTION SIGNS**

**APPLICABLE ORDINANCE SECTION:** UDO Section 5.6.B.12.c.4 Projection Signs

**ORDINANCE INTENT:** This section of the UDO is part of the Design District standards established for Northgate. Concepts of Traditional Neighborhood Development have been incorporated into the standards including increased density, compatible high quality building design, and specialized signage. The standards are intended to create a unique, pedestrian-friendly, dense urban environment. Unlike other areas of the City, projection signs are permitted in Northgate, but only in two (2) of the three Northgate zoning districts: NG-1 Core Northgate and NG-2 Transitional Northgate.

Projection signs are permitted in Northgate in part to the street enclosures that results through the requirements for multi-story buildings and maximum (not minimum) setbacks that are typically adjacent to rights-of-way of 50 feet in width or less. The projection signs are limited to pedestrian scale and their allowance provides more visibility to signage given the street enclosure. In order to limit the potential visual clutter that may result by the proliferation of competing projection signs, however, they are limited to one per building, six square feet for one-story buildings with a maximum of 18 square feet for multi-story buildings and may project

only three feet from the building face. It should be noted that while the Northgate districts standards are much more prescriptive than other districts in the City, of the 18 different appeals and waivers offered by the Northgate standards for applicants to seek relief from or alternatives to, none relate to signage.

## **VARIANCE REQUEST PART 2 – PERMANENT BANNERS**

**APPLICABLE ORDINANCE SECTION:** UDO Section 7.4.J Commercial Banners

**ORDINANCE INTENT:** The provision of banners is to allow for additional temporary signage on property in addition to the permissible permanent signage. Banners are signs consisting of a piece of fabric used for decoration or for identification. Just a few years ago, Council amended the ordinance to prohibit banners entirely in all parts of the City. Banners have been historically seen as problematic due to a lack of durability and the visual clutter results from their proliferation. The ordinance, however, has been since amended by Council to allow banners again but they are limited to 36 square feet in area, one per premise, and a permitted duration of 14 days.

## **VARIANCES REQUEST PART 3 – ATTACHED SIGNS**

**APPLICABLE ORDINANCE SECTION:** UDO Section 7.4.I Attached Signs

**ORDINANCE INTENT:** The allowance for signs is to permit businesses and other activities the right to identify themselves by using signs that are incidental to the use on the premises. Attached signs in addition to freestanding signage are allowed on commercial properties. To help ensure attached signs remain integrated as part of a façade or elevation of a building, they are not allowed to extend more than one foot from any exterior building face, mansard, awning, or canopy. The one foot limitation helps ensure that attached signs do not protrude from the building such that they begin to function like freestanding signs. It should also be noted that signs placed on the roof of a building are roof signs and considered freestanding signs.

## **NOTIFICATIONS**

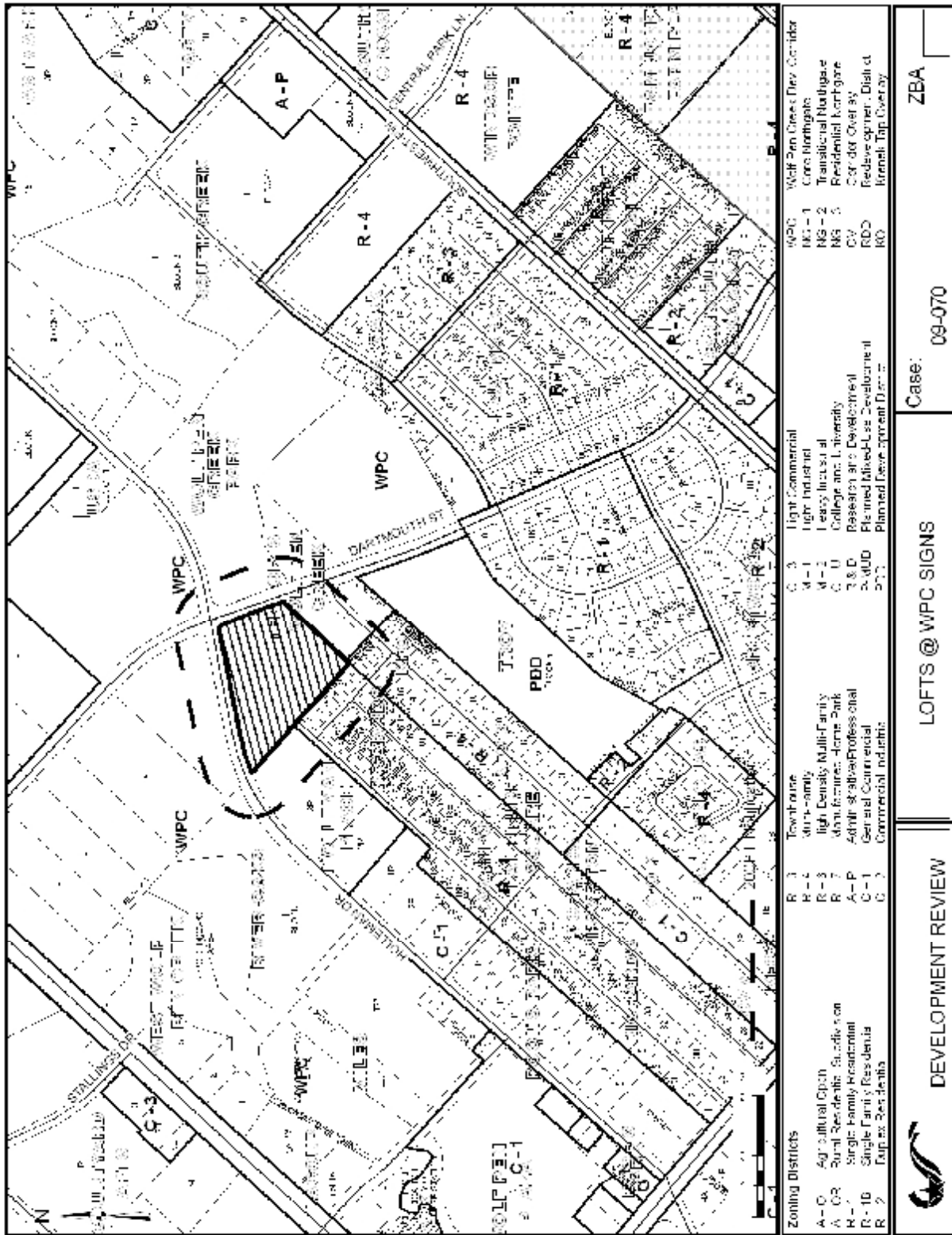
Advertised Board Hearing Date: May 5, 2009

The following neighborhood organizations that are registered with the City of College Station's Neighborhood Services have received a courtesy letter of notification of this public hearing:

None

Property owner notices mailed:	15
Contacts in support:	None
Contacts in opposition:	2
Inquiry contacts:	1







Case: 09-070	LOFTS @ WPC SIGNS	DEVELOPMENT REVIEW
ZBA		

## ZONING AND LAND USES

Direction	Zoning	Land Use
<b>Subject Property</b>	WPC Wolf Pen Creek	Multi-family and commercial mixed use
<b>North</b>	Minor Arterial	Holleman Drive East
<b>South</b>	WPC Wolf Pen Creek; R-4 Multi-Family	Remainder of The Lofts development; Duplexes
<b>East</b>	Minor Arterial	Dartmouth Street
<b>West</b>	WPC Wolf Pen Creek; R-1 Single Family Residential	Arctic Wolf Ice Center; Single family homes

### PHYSICAL CHARACTERISTICS

1. **Frontage:** The Lofts development has over 700 feet of frontage on Holleman Drive E and Dartmouth Street (710 feet), both Minor Arterials on the City's Thoroughfare Plan.
2. **Access:** The subject property has access from a driveway on Holleman Drive E for the commercial uses and access to the private club house. A driveway from Manuel Drive provides access to the parking garage for the residential units.
3. **Topography and vegetation:** The property slopes over 15 feet from the southern, rear corner to the Holleman/Dartmouth intersection. The property is lightly vegetated.
4. **Floodplain:** There is 100-year and 500-year FEMA floodplain identified near the intersection of Holleman Drive E and Dartmouth Street.

### REVIEW CRITERIA

UDO Section 3.18.E Criteria for Approval of Variance sets forth a set of 9 review criteria to evaluate variance requests. The UDO states that no variance is to be granted unless the Board makes affirmative findings to all of the criteria listed below. Since all requested variances relate to signage, the evaluation of the requests has been consolidated together.

1. **Extraordinary or Special Conditions:** That there are extraordinary or special conditions affecting the land involved such that strict application of the provisions of the UDO will deprive the applicant of the reasonable use of his land.

The applicant offers the following special conditions which are generalized as: location, Wolf Pen Creek plan changes, and a lagging UDO. While each of these is described in detail, ultimately they can be reduced to policy arguments, not specific special conditions unique to this property for which the ordinance deprives the applicant of the reasonable use of the land. A number of references are made of an association of Wolf Pen Creek to Northgate and that both permit mixed use developments. While both are special design districts, they do not serve the same purpose as they would otherwise have one set of common design criteria. As mentioned earlier, the Northgate district can be described as a unique, pedestrian-friendly, dense urban environment while the common theme of the Wolf Pen Creek district is Parks, Arts, and Commerce.

Projection signs are permitted only in the NG-1 and NG-2 districts in Northgate. These districts allow for mixed use developments that have dominant commercial uses, as residential uses are only permitted behind commercial uses or on floors above them. The NG-3 Residential Northgate also allows for mixed use, but requires at least 50% of residential uses and limits single retail establishments to 5,000 square feet each. Based the design of the subject development with ground floor residential fronting streets if it were constructed in Northgate, this development would all but be limited to property zoned NG-3, which does not permit projection signs.

2. **Enjoyment of a Substantial Property Right:** That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.

The UDO provides adequate signage for this property. Based on the frontage of this development, the ordinance would allow for a 300 square foot freestanding sign. In addition, several hundred square feet of attached signage is also permissible. Though the Design Review Board is delegated final authority over the provision of signs in the Wolf Pen Creek district, this property already enjoys the right to a substantial amount of signage within the existing ordinance.

3. **Substantial Detriment:** That the granting of the variance will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area, or to the City in administering this UDO.

The provision of additional types and larger scale signage than permitted by ordinance may be detrimental to the public health and safety of those traveling on the adjacent thoroughfares and park property.

4. **Subdivision:** That the granting of the variance will not have the effect of preventing the orderly subdivision of land in the area in accordance with the provisions of this UDO.

These variance requests would not affect the orderly subdivision of other land.

5. **Flood Hazard Protection:** That the granting of the variance will not have the effect of preventing flood hazard protection in accordance with Article 8, Subdivision Design and Improvements.

These variance requests would not affect the preventing of flood hazard protection.

6. **Other Property:** That these conditions do not generally apply to other property in the vicinity.

Other property in the Wolf Pen Creek district is permitted to have a mixture of uses and is subject to the same development standards. Allowance for projection signs, permanent banners and an attached sign that extend further strictly for this property would not be equitable to the surrounding properties. If they are to be allowed, it is a policy matter.

7. **Hardships:** That the hardship is not the result of the applicant's own actions.

The applicant offers the following hardships which are generalized as application of suburban standards to urban development, confusing review process, and inability to design with innovation and creativity. Again, mixed use developments do not have an inherent right to utilize projection signs. Mixed use developments are also permitted by right within Planned Development districts and the NG-3 district though projection signs are not. The NG-1 and NG-2 are unique districts that by their nature projection signs have been



permitted. The use of permanent banners does not relate to suburban versus urban development and no attached sign is permitted to extend more than one foot in any district. When necessary, provision for other types of signage has been made. While the application of sign standards to mixed use developments relatively new, it is not a hardship to have the ordinance applied to them. Further, while the DRB has the ability to grant waiver or appeals for greater innovation and creativity in design in Wolf Pen Creek, it has been a policy decision by Council not to grant that authority in relation to signage.

This property is currently being developed. If the applicant has designed the project and buildings in such a manner that utilization of signage as permitted by the UDO is not practical, then any hardship is the result of the applicant's own actions.

8. **Comprehensive Plan:** That the granting of the variance would not substantially conflict with the Comprehensive Plan and the purposes of this UDO.

The Comprehensive Plan does not speak specifically to signage though the purposes of the UDO would be undermined if variances were unfairly granted to this property.

9. **Utilization:** That because of these conditions, the application of the UDO to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.

The application of the UDO to the property does not effectively prohibit or unreasonably restrict the utilization of signage on the property. As described above, this property has the potential for a significant amount of signage within the existing regulations.

## ALTERNATIVES

The applicant offers two (2) alternatives amend the UDO as appropriate or redesign the sign package in accordance with existing regulations. Staff agrees that these are the appropriate alternatives rather than granting variances that may circumvent the policy discretion of City Council.

## STAFF RECOMMENDATION

Staff recommends denial of all variance requests since based on an evaluation of review criteria set for in the UDO, only two (2) of the nine (9) criteria have been affirmative. It is Staff's judgment that the applicant has brought forward requests that are matters within the policy discretion of Council, as made through adopted ordinance, and are not based on substantive conditions or hardships that exist on this property.

If, however, the Board makes affirmative findings to one or all of the variance requests, Staff recommends that they be **conditioned** on approval of the Design Review Board. Even if proposed signs meet the technical requirements of the UDO or as otherwise allowed through variance, signs proposed in Wolf Pen Creek are subject to additional oversight by the DRB. This additional oversight does not apply signs proposed in Northgate or other areas of the City.

## SUPPORTING MATERIALS

1. Application
2. Sign Package



## FOR OFFICE USE ONLY

CASE NO. : 09-70DATE SUBMITTED : 04/06/2009 1:00 p.m.BJB

## ZONING BOARD OF ADJUSTMENT APPLICATION

### MINIMUM SUBMITTAL REQUIREMENTS:

       \$150 Filing Fee       Application completed in full.       Additional materials may be required of the applicant such as site plans, elevation drawings, sign details and floor plans. The Zoning Official shall inform the applicant of any extra materials required.Date of Preapplication Conference: Wednesday, February 28, 2007

### APPLICANT/PROJECT MANAGER'S INFORMATION (Primary Contact for the Project):

Name Natalie Ruiz, IPS Group – Planning SolutionsStreet Address 511 University Drive East, Suite 205City College StationState TexasZip Code 77840E-Mail Address Natalie@ipsgroup.usPhone Number (979) 846-9259Fax Number (979) 846-9259

### PROPERTY OWNER'S INFORMATION:

Name APGP – Wolf Pen, Inc. dba APSHV – Wolf Pen, LP; Mark Lindley, Sr. Vice PresidentStreet Address 5151 San Felipe, Suite 2050City HoustonState TexasZip Code 77056E-Mail Address mlindley@assetpluscorp.comPhone Number (713) 782-5800Fax Number (713) 268-5111

### DEVELOPER'S INFORMATION:

Name Mark Lindley, Sr. Vice President, Asset Plus CorporationStreet Address 5151 San Felipe, Suite 2050City HoustonState TexasZip Code 77056E-Mail Address mlindley@assetpluscorp.comPhone Number (713) 782-5800Fax Number (713) 268-5111

### LOCATION OF PROPERTY:

Address 410 Holleman Drive EastLot Reserve Block        Subdivision Woodstock #1Description if there is no Lot, Block and Subdivision Southwest corner of the intersection of Holleman Drive East and Dartmouth Drive.

Action Requested: Sign variances – Projection Signs as defined in the Northgate District (PS1) Allow projection signs in Wolf Pen Creek; (PS2) Allow more than one projection sign per building; (PS3) Exceed the area of projection signs - Proposed 65 square feet per sign (65 – 18 = 47 sq. ft. variance per sign) and (PS4) Exceed amount of projection from the building (4'4" – 3' = 1'4" variance); Permanent Banners (B1) Allow permanent banners; and Canopy Sign (CS1) Allow a sign to project more than one foot from the top of a canopy – proposed projection at highest point is 4' (4' – 1' = 3' variance).

Current Zoning of Subject Property: WPC Wolf Pen CreekApplicable Ordinance Section: Section 7.4, Signs

The following specific variation from the ordinance is requested:

The applicant is requesting variances to sign sizes and locations for a signage package intended to complement a mixed use development in the Wolf Pen Creek Design District. The package includes permanent banners, projection signs, and signage designed to market both the residential and commercial aspects of this mixed use development. The package is designed to enhance and complement the design theme of the development and the Wolf Pen Creek district.

This variance is necessary due to the following special conditions:

Location: This particular corner is unique in College Station in that it is the anchor for the Wolf Pen Creek Design District. It is one of only 2 corners at a major intersection in a special design district whose focus is to encourage mixed use developments with retail components. It is unlike Northgate where the focus is solely pedestrian. It is unlike other areas of town where the focus of retail is solely street orientation. To develop a successful mixed use project that incorporates residential and retail components, the signage must appeal to both pedestrian and vehicular traffic.

Wolf Pen Creek Plan Changes: Initially, the Wolf Pen Creek (WPC) zoning district allowed multi-family developments as a permitted use. Through the most recent update of the plan, the City determined that not enough property within the district was developing as retail. In an effort to provide more retail opportunities within the district, multi-family developments were required to have retail uses on the first floor. As a result, this particular development was required 9,000 square feet of retail uses on the first floor.

A Lacking UDO: Another area in town where mixed use is encouraged is within the Northgate area. The City has developed special sign standards for Northgate. There are no sign regulations addressing the concept of mixed use within the Wolf Pen Creek district. This creates a hardship for both staff and applicants in trying to determine which regulations to apply to these types of projects. The Wolf Pen Creek district is intended to be a dense, urban environment with design standards different from other districts in College Station. Unfortunately the City has never created a set of standards for signage for mixed use developments.

The unnecessary hardship (s) involved by meeting the provisions of the ordinance other than financial hardship is/are:

Application of suburban standards to urban development: A set of specific design standards for the Wolf Pen Creek District has not been created to address the uniqueness of the entire district. Typical suburban standards are being utilized to regulate urban multi-story mixed use developments. The Lofts of Wolf Pen Creek is the first development to encounter these issues especially as they relate to signage. The time delay involved in working out sign solutions has been detrimental to the development timeline.

Confusing review process: Relief from the standard suburban sign regulations requires approval from the ZBA. Signs play a critical role in the overall design of the site. Unlike the building and other site characteristics, the Design Review Board is not allowed to use complete discretion over signage, although they are directed to use discretion over sign materials and colors. WPC regulations specifically state that criteria "are not intended to restrict imagination, innovation or variety, but to focus on design principles which can result in creative solutions to develop a satisfactory visual appearance". The design issues associated with the site and buildings were addressed through the conditional use permit and site plan process with the guidance of the Design Review Board. Unfortunately, signage is a different section of the code which requires ZBA approval to vary from the typical suburban requirements. This creates confusion for applicants trying to determine how to best satisfy the city's requirements; one board looks at dimensional requirements while another looks at design criteria. When it comes to signage the two are difficult to separate. This sign package was developed with the intent of complementing the design standard of the specific project.

Inability to design with innovation and creativity: Having to use one set of sign regulations intended for commercial land uses for a development that includes residential uses and is oriented to both pedestrian and vehicular traffic, in an area where multi-story mixed-use developments are the preferred development style creates a hardship in design. The Lofts of Wolf Pen Creek is located at a major intersection in the heart of the special design district. While pedestrian activities are encouraged and required for private development, vehicular traffic is still critical to the success of the district and future retail developments. The multi-story mixed-use development is the first of its kind in Wolf Pen Creek. The City Council has made it clear through recent and past actions that more mixed-use development is desired within the district. The proposed "urban" designation in the City's Comprehensive Plan reflects the City's desire to increase densities in the area while still providing commercial land uses. Unfortunately, the Wolf Pen Creek ordinance has not been updated to remain in line with the City's vision. Instead, the ordinance contains suburban development and suburban sign regulations. As a result, a comprehensive sign package is required to maintain the integrity of



the overall urban design plans approved by the Design Review Board. Signs oriented to both pedestrian and vehicles must be considered.

The following alternatives to the requested variance are possible:

The UDO could be amended to include mixed use signage standards, but the time involved would be a huge detriment to a project timeline that anticipates opening this fall.

Replace this package with a suburban sign package that underutilizes the potential and does not encourage innovation and creative design.

This variance will not be contrary to the public interest by virtue of the following facts:

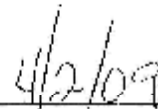
The vision for mixed use in the Wolf Pen Creek district is better met by allowing signage that complements a development design rather than simply meets dimensional criteria. The proposed sign package complements the design approved by the Design Review Board in its review of site, landscape, building material and other design elements.

*The applicant has prepared this application and certifies that the facts stated herein and exhibits attached hereto are true, correct and complete.*

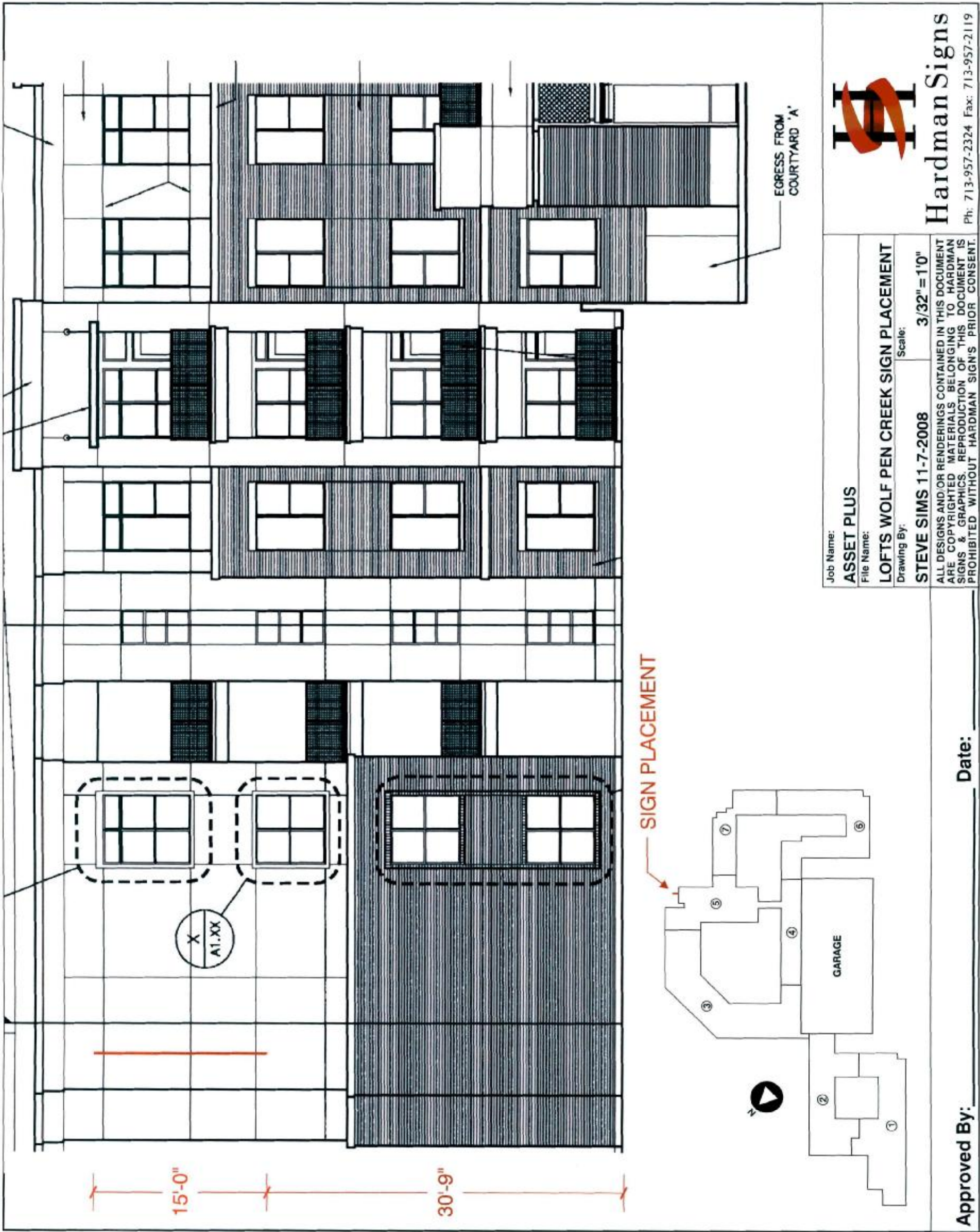


Signature and Title

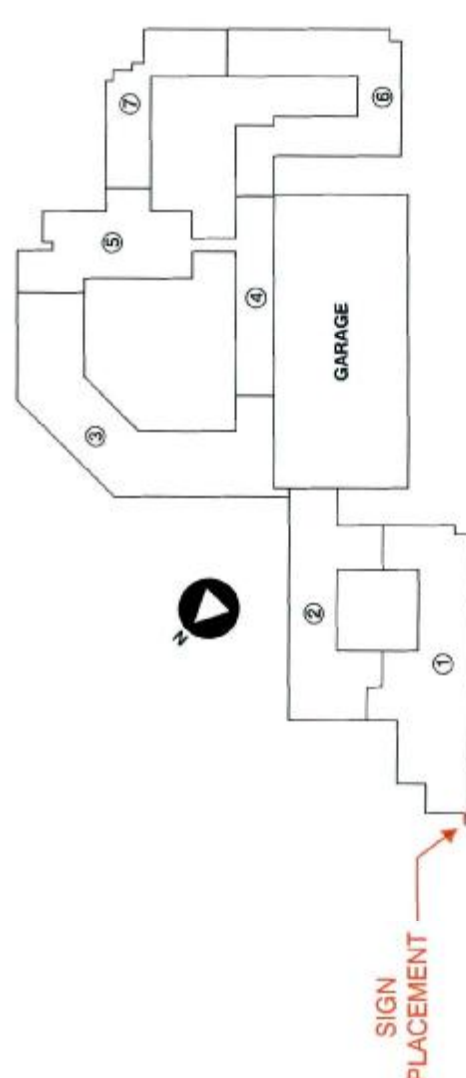
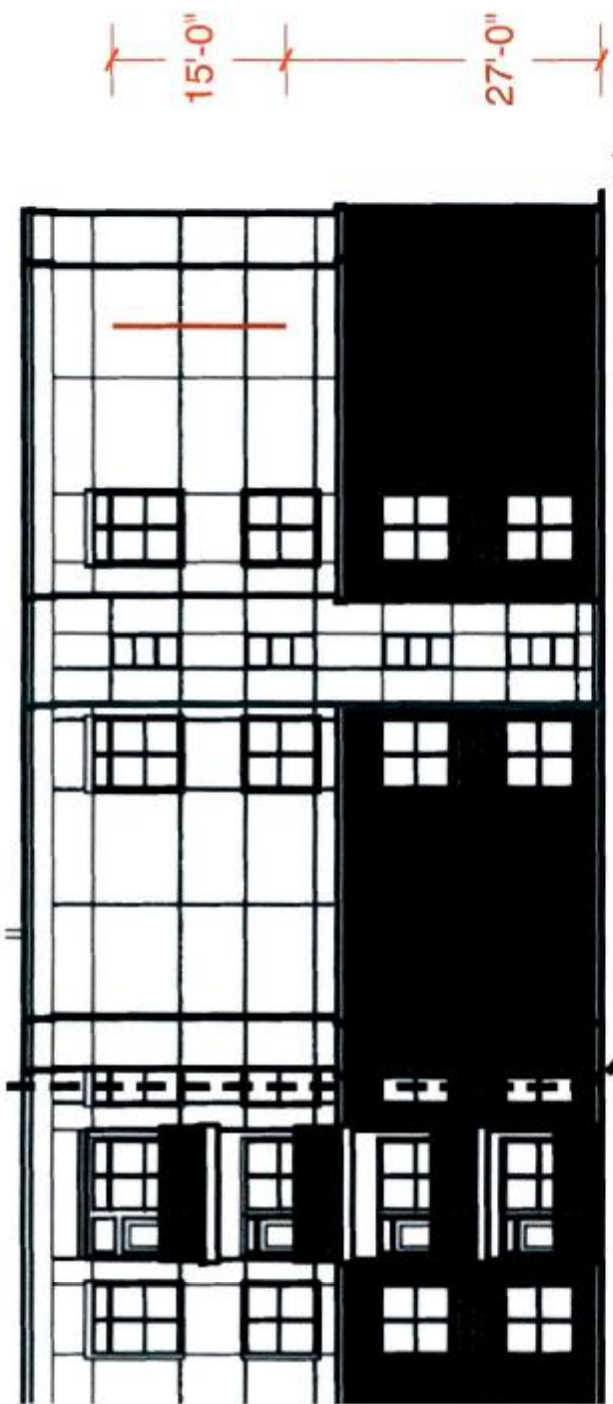
SR. VICE PRESIDENT




Date

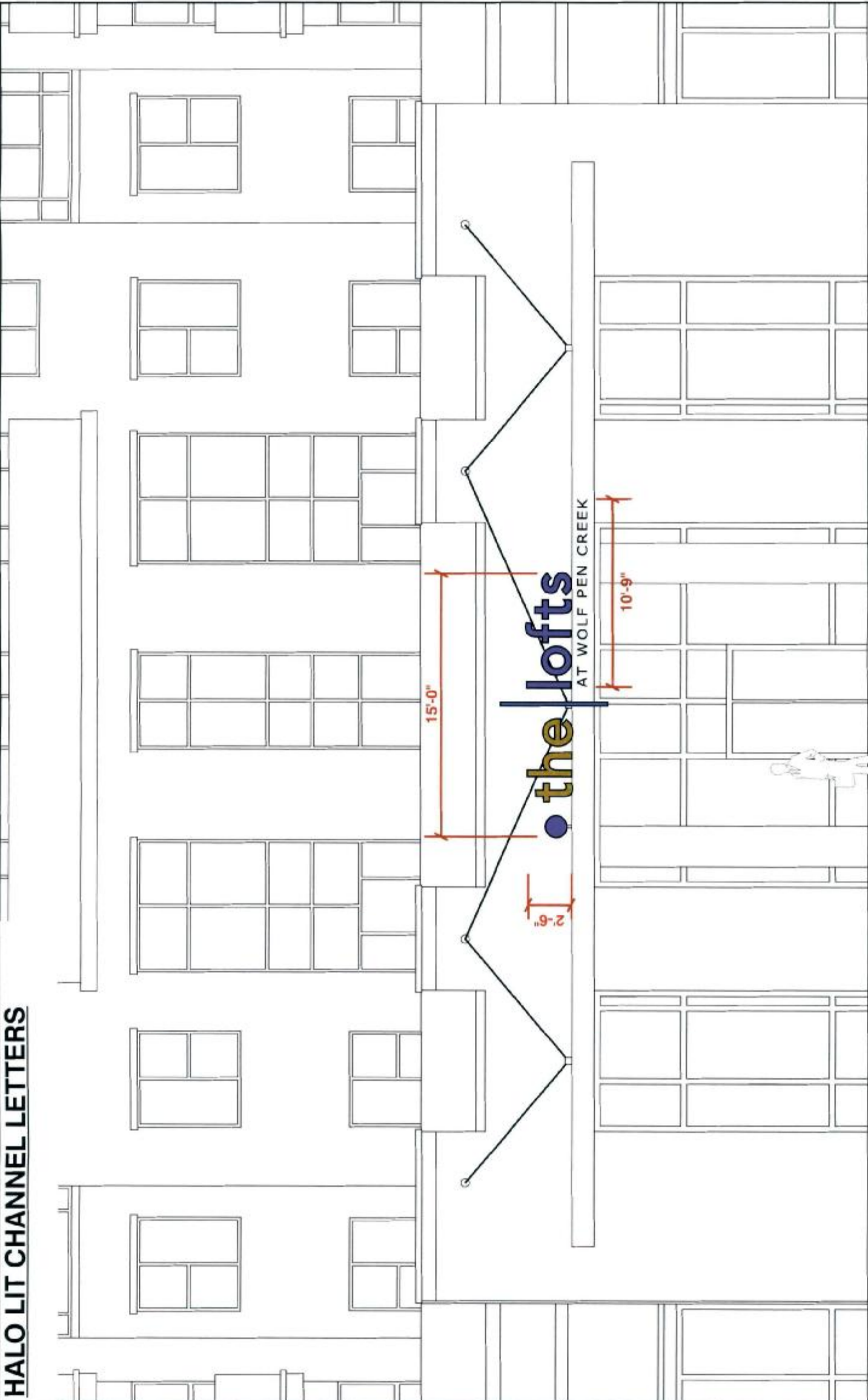






Job Name: <b>ASSET PLUS</b>		 <b>Hardman Signs</b> Ph: 713-957-2324 Fax: 713-957-2119
File Name: <b>LOFTS WOLF PEN CREEK SIGN PLACEMENT</b>		
Drawing By: <b>STEVE SIMS 11-7-2008</b>	Scale: <b>1"=20'-0"</b>	
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Approved By: _____		Date: _____

HALO LIT CHANNEL LETTERS




Job Name:  
**ASSET PLUS**

File Name:  
**LOFTS WOLF PEN 10**

Drawing By:  
**STEVE SIMS 11-10-2008**

Scale:  
**1/8"=1'0"**



**Hardman Signs**  
Ph: 713-957-2324 Fax: 713-957-2119

Approved By: \_\_\_\_\_

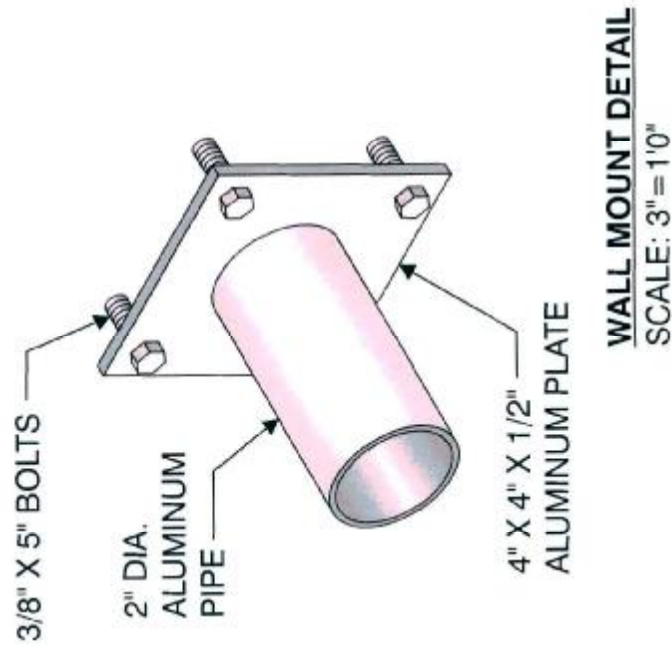
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FLAG MOUNTED BANNERS



ALTERNATE LAYOUT



Job Name: <b>ASSET PLUS</b>		 <b>Hardman Signs</b> Ph: 713-957-2324 Fax: 713-957-2119
File Name: <b>LOFTS WOLF PEN 10</b>		
Drawing By: <b>STEVE SIMS 11-10-2008</b>	Scale: <b>1/2" = 1'0"</b>	
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Approved By: \_\_\_\_\_ Date: \_\_\_\_\_